

REMARKS

Claims 1-21 were pending in the application. Claims 13-20 have been amended to correct informalities, leaving claims 1-21 for consideration upon entry of the present amendment. No new matter added by the amendment.

Claim Objection:

Claim 14 was objected to because of informalities.

Claim 14 has been amended to change "optical" in line 2 to "optic", as suggested by the Examiner.

Thus, withdrawal of the claim objection is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lucent's Metropolis EON (hereinafter "Lucent") for the reasons stated on pages 2-3 of the Office Action.

The Examiner cited the article released on June 5, 2001, Metropolis EON data sheet published dated on September 23, 2002 and Metropolis EON Brochure published dated on September 23, 2002. The published dates of the Metropolis EON data sheet and Brochure are found on the following Lucent Web pages:

<http://www.lucent.com/knowledge/document/detail/0,1983,inContentId+0900940380004b1c-inLocaleId+1,00.html>; and

<http://www.lucent.com/knowledge/document/detail/0,1983,inContentId+0900940380004a86-inLocaleId+1,00.html>.

Because the filing date of the present application is June 6, 2001, the Metropolis EON data sheet and Brochure cannot be the prior art of the present invention under 35 U.S.C. § 103(a).

Thus, Applicant treats the article released on June 5, 2001 as the "Lucent" reference cited by the Examiner. The Lucent discloses its goals for revenue-generating, high-speed services, the Metropolis metro EON being one of the goals. Lucent simply discloses that the Metropolis metro EON allows customer to deliver cost-effective optical bandwidth directly to the customer premises, but does not disclose how to implement the Metropolis metro EON. The claim elements of claim 1: a housing, wherein the housing is capable of being mounted in a front panel of a distribution frame in a switching office;

circuitry contained inside the housing, the circuitry capable of performing multiple-channel passive DWDM by receiving a plurality of inputs and providing one output, the circuitry further capable of providing a non-intrusive monitoring port; a faceplate attached to the housing, the faceplate having a plurality of openings; and a plurality of connectors, wherein each connector resides in one of the plurality of openings in the faceplate, each connector having two ends, one end being connected to an input of the circuitry and another end being capable of accepting an input cable, wherein each of the plurality of inputs is capable of accepting one optical signal of a defined wavelength, are not found in Lucent.

Further, with the disclosure of the Lucent, i.e., with the goals that the Lucent wants to achieve but the way how to achieve the goals, a person having ordinary skill in the art is not motivated to modify the Lucent to arrive at the invention of claim 1.

Thus, the Examiner has used an improper standard in arriving at the rejection of claim 1 under 35 U.S.C. § 103(a), based on improper hindsight which fails to consider the totality of applicant's invention and to the totality of the cited references. More specifically the Examiner has used Applicant's disclosure to select portions of the cited references to allegedly arrive at Applicant's invention. In doing so, the Examiner has failed to consider the teachings of the references or Applicant's invention as a whole in contravention of 35 U.S.C. § 103(a), including the disclosures of the references which teach away from Applicant's invention. Accordingly, Lucent does not render obvious claim 1.

Claims 7, 13, 17 and 21 are believed to be allowable for at least the reasons given for claim 1. Claims 2-6 depend from claim 1, claims 8-12 depend from claim 7, claims 14-16 depend from claim 13 and claims 18-20 depend from claim 17. Thus, these dependent claims are believed to be allowable due to their dependency on claims 1, 7, 13 and 17.

Thus, withdrawal of the claim rejections under 35 U.S.C. § 103 (a) is respectfully requested.

Conclusion

In view of the foregoing remarks and amendments, Applicant submits that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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